REMARKS

Entry and consideration of this Amendment are respectfully requested.

With regard to claims 28-31, 34 and 38-42, which stand rejected under 35 U.S.C. §

102(e) as being anticipated by the Vembu reference, Applicant provides the following traversal.

As discussed in Applicant's previous amendments and responses, the Vembu system uses

the measured or detected signal-to-noise ratio (SNR) determine which control mode is to be

triggered, either a burst or tracking mode. When the SNR is at the proper level, nothing is done,

when the SNR is high the signal is adjusted down, and when the SNR is low the control

algorithm determines if a quick burst of signal is needed (burst mode) or a gradual increase is

needed (tracking mode). However, what is important to note in all of the above scenarios is that

the SNR value used is the actual measured or detected SNR value. Neither the SNR value, nor

the threshold value are estimated in the Vembu system. Thus, the system disclosed in Vembu,

and the system of the present invention have significant differences in their operation.

As an initial matter, Applicant has not found, nor has the Examiner identified any point in

Vembu where an "estimation" is performed. In attempting to satisfy this feature, of the present

invention, the Examiner has stated that the claim language "regularly estimating if a criterion is

met" is disclosed because Vembu determines when the "received signal-to-noise ratio is below a

nominal level." *See* Office Action dated March 12, 2002, page 3, para. 3 (emphasis added). The

Examiner has also stated that this claim language is satisfied because in Vembu, "[t]he criterion

is met if the SNR is greater than a desired nominal value." *See* Office Action dated July 16,

2001, page 9, para. 9 (emphasis added). However, as the Examiner's language makes clear

Vembu only uses an actual determination of the SNR compared to a threshold value to determine whether or not to use the tracking mode, burst mode, or no mode at all. As the Examiner has admitted, Vembu controls the modes based on whether or not the SNR "is greater" than or "is below" a certain threshold value. There is no estimation disclosed in Vembu in the performance of either of these steps. Applicant submits that the determination of a SNR value greater than or lower than a threshold value is not an "estimation." Vembu does not disclose "estimating whether or not the SNR is greater than or lower than a value, Vembu determines whether or not the SNR "is" greater than or less than a threshold value. Applicant submits that these are not the same.

Therefore, it is the Applicant's position that Vembu only discloses detecting or measuring the SNR and comparing it to a threshold value. No estimation takes place.

Additionally, Applicant notes that Vembu fails to disclose, teach or suggest a system "wherein [the] different type of algorithm includes an algorithm showing better performances than [the] algorithm in fast changing environments and/or high mobile speed." *See* claim 28. There is no disclosure within Vembu of employing an algorithm which performs better in fast changing environments and/or at a high mobile speed.

As such, Applicant respectfully submits that Vembu fails to disclose, teach or suggest each and every feature of the present invention, as set forth in claim 28, and hereby requests the Examiner reconsider and withdraw the present 35 U.S.C. § 102(e) rejection of this claim, and its respective dependent claims.

Additionally and independently, with regard to claims 43 and 58, Applicant notes that the Examiner has admitted that Vembu discloses using only "closed loop algorithms" in its system. *See* Office Action dated August 15, 2002, page 3. Claim 43 recites, *inter alia*, that the deactivation is controlled by a different type of algorithm than that used for the power control algorithm, and that these algorithms are from a group comprising closed and open loop algorithms. Therefore, in the present invention as recited in claim 43, if one algorithm is of a closed loop type then the other must be an open loop type, and vice-versa. As admitted by the Examiner, this is not the case in Vembu, as they are both closed loop algorithms.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.
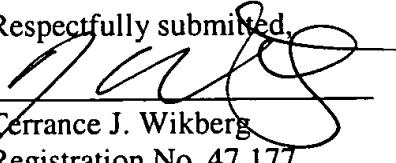
Applicant notes that claim 59 has been added.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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